



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Norman Rittenberry, D.C.

**Respondent Name**

Zurich American Insurance Company

**MFDR Tracking Number**

M4-16-3655-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

August 11, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED, THE CURRENT RULES ALLOW REIMBURSEMENT."

**Amount in Dispute:** \$1450.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "There seems to be some issue with bill receipt/review. The carrier may review the bill and reconsider payment as appropriate."

**Response Submitted by:** Flahive, Ogden & Latson

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 29, 2016	Designated Doctor Examination	\$1450.00	\$1450.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.10 sets out the procedures for completing a medical bill.
3. 28 Texas Administrative Code §133.210 sets out the procedures for documentation associated with medical bills.
4. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
5. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
6. Texas Labor Code §408.027 defines the requirements for payment of a health care provider.

7. Submitted documentation did not include explanations of benefits for the disputed services.

### Issues

1. Was a complete medical bill submitted to the insurance carrier in accordance with 28 Texas Administrative Code §133.10?
2. Were the services in question paid or denied in accordance with 28 Texas Administrative Code §133.240?
3. What is the recommended reimbursement for the disputed services?

### Findings

1. The requestor is seeking reimbursement for a designated doctor examination performed March 29, 2016. The documentation submitted by Dr. Norman Rittenberry includes:

- An email dated April 28, 2016 sent to Shaneika Taylor indicating that a bill for the injured employee was attached.
- An email dated July 18, 2016 sent to Shaneika Taylor indicating that a bill for the injured employee was attached.

Review of available information finds that Shaneika Taylor is listed as the adjustor for the claim in question on the Request for Designated Doctor Examination (DWC032) submitted to the division for the services in question.

28 Texas Administrative Code §133.210(e) states:

It is the insurance carrier's obligation to furnish its agents with any documentation necessary for the resolution of a medical bill. The Division considers any medical billing information or documentation possessed by one entity to be simultaneously possessed by the other.

28 Texas Administrative Code §133.10 defines a complete medical bill. The division concludes that the submitted documentation supports that a complete medical was submitted to the insurance carrier in accordance with 28 Texas Administrative Code §133.10.

2. Per Texas Labor Code Sec. 408.027 (b), Federal Insurance Company was required to pay, reduce or deny the disputed services not later than the 45<sup>th</sup> day after it received the medical bill from Dr. J. Scott Harris. Federated Insurance Company was therefore required to take the following actions in accordance to corresponding 28 Texas Administrative Code §133.240:
  - (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45<sup>th</sup> day** [emphasis added] after the insurance carrier received a complete medical bill...
  - (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
    - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

Review of the submitted documentation does not find an explanation issued by the insurance carrier for the services in question. Therefore, the division finds that the services in question were not paid or denied in accordance with 28 Texas Administrative Code §133.240.

3. Per 28 Texas Administrative Code §134.204(j)(3), "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that the requestor performed an evaluation of Maximum Medical Improvement. Therefore, the correct MAR for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204(j)(4), "The following applies for billing and reimbursement of an IR evaluation. ... (C)(ii) The MAR for musculoskeletal body areas shall be as follows. ... (II) If full physical evaluation, with range of motion, is performed: (-a-) \$300 for the first musculoskeletal body area." The submitted documentation supports that the requestor provided an impairment rating, which included a

musculoskeletal body part, and performed a full physical evaluation with range of motion of the lower extremities. Therefore, the correct MAR for this examination is \$300.00.

28 Texas Administrative Code §134.204 (j)(4)(B) states,

When multiple IRs are required as a component of a designated doctor examination ... the designated doctor shall bill for the number of body areas rated and be reimbursed \$50 for each additional IR calculation. Modifier 'MI' shall be added to the MMI evaluation CPT code.

The submitted documentation indicates that the Designated Doctor was ordered to address Maximum Medical Improvement, Impairment Rating, and Extent of Injury. The narrative report and enclosed forms support that these examinations were performed, and one additional impairment rating was provided. Therefore, the correct MAR for this service is \$50.00.

Per 28 Texas Administrative Code §134.204(k),

The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.

Further, 28 Texas Administrative Code §134.204(i)(2) states,

When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection:

- (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section;
- (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and
- (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section.

The submitted documentation indicates that the Designated Doctor performed examinations to determine the extent of the compensable injury and whether disability was a direct result of the compensable injury, as ordered by the Division. Therefore, the correct MAR for these examinations is \$750.00.

The total MAR for the disputed services is \$1450.00. The insurance carrier paid \$0.00. A reimbursement of \$1450.00 is recommended.

### **Conclusion**

The outcome of this medical fee dispute relied upon the evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence may not have been discussed, it was considered. For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1450.00.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1450.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Laurie Garnes  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
October 31, 2016  
Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**